

## Introduction:

The State of Alabama is committed to the concept of affirmatively furthering Fair Housing. This plan is a result of the conceptual process involved in the development of the State's Consolidated Plan, the development and publication of sixty-seven county housing plans, and numerous community analyses of impediments to Fair Housing.

Great strides were made during the first year of implementation of the State's Consolidated Plan. Most important was the passage of a State Fair Housing Law, which had backing not only from federal and state officials, but also the backing of state realtors and other housing professionals.

Other accomplishments include a new requirement for recipients of state CDBG funds to submit an analysis of impediments to Fair Housing choice as a condition to be met before any funds can be accessed by the recipient.

## Analysis of Impediments:

The State through its review of the data collected to date via the 67 housing plans, consultation with other state agencies and local analyses of impediments, has identified a number of impediments. Some may appear to be contradictory, but all do not apply to every community; circumstances vary from community to community.

1. Land Use Restrictions. A vast majority of Alabama's cities restrict the use of properties within their jurisdiction to specific purposes. In order for the property to be used for a purpose other than which it is zoned, a variance or rezoning must be obtained from the city government. Although these zoning restrictions do sometimes delay or prohibit the production of housing units, they remain a necessary and prudent police power of the localities to ensure proper building activities within their community. Several cities have restrictions for the development of residential property, such as curb and gutter, storm drainage, and underground utilities which are prohibitive to the production of affordable housing particularly in the lower priced homes. Regrettably, often only high-end developments can meet the intent of some of Alabama's zoning/land use laws.

For rural areas of Alabama, land use requirement barriers or impediments such as lack of infrastructure or zoning and subdivision regulations also affect the production of affordable housing. Virtually all of the State's counties have some areas

not served by adequate water and sewer systems. While federal programs such as the CDBG grants for non-entitlement areas make an impact on the problem, many communities remain unserved or underserved. Zoning laws and subdivision regulations which control the development and use of land in the smaller communities are often very complex. It is common for local zoning ordinances to have restrictive low-density requirements and lot design (size) standards which are too constraining for the effective production of low-cost housing units. Many subdivision regulations are geared for typical suburban development. Some accommodations have been made for rural areas, but these accommodations are usually associated with larger tracts or lots where the increased burden on the county road system is minimal. The application of suburban standards for some areas often results in a situation in which affordable housing is not economically feasible. A combination of these factors can often cause development costs to be unreasonably high in Alabama's rural areas.

2. Building Codes. Municipal building codes and FHA minimum property standards are often expressed in terms of rigid specifications, i.e., The Southern Building Code. Even while new construction techniques and architectural innovations may be satisfactory in terms of safety, comfort, and other measurable standards, they are not in compliance unless they meet these strict specifications. Diversity in building code enforcement also creates additional expenses for builders who may be unduly delayed in their construction and/or forced to undertake costly redesigns. The building code barrier is especially oppressive in terms of housing rehabilitation. The codes typically require that, during the rehabilitation of an existing structure, all systems be brought to new construction standards. This requirement is very costly and extremely prohibitive in keeping up with the housing rehabilitation needs of many Alabamians.

3. Costs Associated With Handicap Compliance. Another major governmental regulation currently hindering the production of rental housing is the Fair Housing Accessibility Guidelines which became effective early in 1991. These guidelines require building designs to be altered to accommodate handicapped persons. Accessible housing units are more costly to construct and the required renovations to existing structures can be especially costly for older less-modular building.

4. Fire Protection Costs. Due to a lack of fire protection in some rural Alabama counties, homeowner's insurance rates are higher causing an overall increase in the cost of housing. It is not uncommon for a rural homeowner to pay twice

the amount for homeowner's insurance as an urban homeowner. This is particularly oppressive to low-income households attempting to buy a house in a rural or unincorporated area. The additional monthly expense in their mortgage payment for insurance could prevent some of these households from purchasing or qualifying for a home in these areas.

5. Lack of Land Use Regulations. For a great many Alabama families, the use of mobile homes and manufactured homes has been a viable solution to the problem of affordable housing. These types of homes, which are scattered throughout all 67 counties and within the State's municipalities, point to a need for a diversity of housing alternatives. A major problem with mobile home development, however, is a lack of county-wide zoning and/or the lack of land use regulations which would establish some ground rules for planned mobile home parks. A home or manufactured home situated in an area without the required infrastructure (specified roads, water, sewer, or septic) can be considered a substandard housing unit. Some Alabama counties exercise a lack of authority to permit location of these homes. Legislation introduced in the Alabama Legislature to extend the authority for counties to regulate manufactured home parks has repeatedly failed. The results of such random and arbitrary land use regulations are as follows: Mobile homes or manufactured homes are often located alone and are frequently substandard; counties have made very few plans to accommodate the subdividing of land for this type of housing; there is often a negative perception of these types of homes in terms of aesthetics and suitability because of their location and/or condition.

Several Alabama counties have no regulations that prohibit unsafe, deteriorating, and unsanitary housing. Virtually uninhabitable housing can be rented in Alabama because there is no required warranty of habitability. State and county health departments are typically responsible for enforcing health and sanitation codes, but these same counties are less likely to enforce substandard structural-type housing conditions without an enforceable code with which to condemn these dilapidated structures. The overall effect can be a glut of homes which are unsuitable for habitation, too far gone for rehabilitation and eyesores to the community. The tenants of such structures are unprotected and the permissive non-code policy functions as a disincentive to improving affordable housing. A prominent part of any state or local housing plan should be the elimination of any substandard non-rehabilitative housing. As long as these substandard units remain in existence, some Alabama households will continue to reside there.

6. Institutional/Financial Constraints. An almost universal opinion of those having difficulty with the acquisition of new homes is that lending institutions are too conservative and too restrictive in their lending practices. Banks, mortgage lenders, and other financial institutions have historically been very reluctant to deviate from their standard patterns of loaning mortgage money. A poor credit history or an insufficient amount of credit experience is frequently the primary reason that many low and moderate income Alabamians cannot afford to buy a home. Among the chief complaints: (1) credit history reports cover too many years, possibly exposing some financial difficulties early in one's adulthood; (2) potential borrowers get little or no consideration for having made timely rental or utility payments for an extended period of time; (3) banking guidelines require that a borrower come up with a 5 percent down payment from their own funds when buying a home; (4) closing costs are excessive; (5) lending institutions, particularly in Alabama's rural areas, are able to loan most of their available capital to lower-risk (more affluent) borrowers; (6) the banking industry generally lacks knowledge of low income federal programs and educational services; (7) a few unpaid medical bills can jeopardize a loan; (8) lower income persons are less able to weather a credit crunch when the cost of everything, including housing, goes up; (9) the young and the elderly alike are targeted as high-risk groups; and (10) conventional financing is not available for older homes.

In summary, lending options are limited for low and moderate income Alabamians. It remains very difficult to qualify for a mortgage loan without a combination of sufficient income and a good credit rating. Lenders stay on traditional courses and, despite CRA obligations, are not likely to meet the growing need for affordable housing finance.

7. Fair Housing Issues/Discrimination. Some Alabama counties cite discrimination as a barrier to affordable housing. While racial discrimination (mostly against blacks) is the most prevalent form, certain age groups (young people or the elderly) or class designations (families with young children or with a handicapped family member) also feel the pinch of this unfair housing practice. Frequently this barrier is disguised within other more acceptable barriers such as high rental rates, non-availability of mortgage financing and/or restrictive land use regulations. It is presumed that the advertising of rental properties and homes is sometimes by word of mouth to avoid Fair Housing Laws.

Unfortunately, most Alabama counties have social problems that are linked to economic problems. When times get tough, lower income people, particularly blacks, face even greater discrimination and prejudices than ever and access to decent housing is very difficult. There is also a bias against low income housing, and especially against high density public housing or concentrations of subsidized units. The bias against such housing is accentuated by rising crime rates. The use of illegal drugs and an influx of gang activity even in non-metro Alabama counties has had a devastating effect on the public image of low income housing.

8. The "NIMBY" Syndrome. NIMBY (not in my backyard) is a common sentiment among many residents in Alabama and elsewhere. There is a stereotypical view that all low income housing developments are an eyesore to the community. Mobile home parks and other planned affordable housing developments are shunned by more affluent residents who are concerned over a possible decrease in the property values of their homes if such a development is close by. Many otherwise caring and concerned Alabama citizens promote affordable housing initiatives as long as the developments are not near their homes. The NIMBY barrier is a classic "haves vs. have nots" situation where the less fortunate (low income Alabamians) suffer from a lack of sensitivity on the part of established communities and neighborhoods.

9. Land Ownership Patterns. In much of Alabama, particularly in rural areas, most suitable land is owned or controlled by a few owner/developers. These select few can dictate the extent of any housing activity to be carried out on their land. They can also be more selective in dealings to ensure maximum profitability, usually precluding any affordable housing opportunities for lower income Alabamians. Home sites in rural Alabama are frequently sold in large-lot sizes, perhaps to discourage or exclude any marginal investors. This tendency toward large land holdings directly prevents low and moderate income households from obtaining rural building sites where they can construct modest homes. It also lessens the incentive for more affluent persons to build new homes on cheap rural lots and thus slows down the "filtering process". With less new homes being constructed, there are fewer older-but-suitable homes on the market. Any barrier or impediment to the natural process of home filtering can be construed as a major problem in Alabama.

Another way that land ownership patterns may be a barrier to affordable housing in Alabama: FmHA (now, the Office of Rural Economic and Community Development) regulations cite a maximum of

one acre of land for which they will finance a home. Many of their applicants from the state's rural areas, who may otherwise qualify as low or moderate income, already own the land that they want to build on and are thus disqualified because their lots are larger than one acre.

Yet another problem for the metro areas of Alabama regarding land ownership patterns: growing urban areas such as Huntsville are facing a severe land shortage from which to accommodate new construction or the replacement of existing substandard units. This land shortage is the result of a population growth spurt which has fueled a supply/demand imbalance. Accompanying this trend, there has been a rapid escalation of land prices in the central areas in the last decade producing an outward exodus of the more affluent middle class toward the suburbs. With worsening living conditions, the households that stay in the central core area are usually lower income and minority.

Still another barrier relating to land ownership patterns is the "absentee landlord". Rental housing in urban areas, occupied by low-income residents, is typically owned by absentee landlords that display little interest in maintaining the quality of the housing.

#### State Actions to Eliminate Impediments:

In response to the barriers or impediments identified above, the following section outlines strategies or actions to overcome those barriers to fair housing:

#### Land Use Restrictions

- Encourage land use practices which maximize housing affordability.
- 1. Units of local government could dictate a more equitable system of permitting new construction areas, i.e., require that 50 percent (or some reasonable figure) of all new planned subdivisions be targeted for more moderate income Alabamians. This would ensure that not all new homes in a community would be high-end (built for the more affluent). This could also be instituted for multi-family developments.
- 2. To the greatest extent possible, avoid overconsumption of land otherwise available for housing. Not only will practices to conserve land reduce overall capital costs

and open up more housing opportunities, but it is more environmentally responsible to do more with less.

- Research the feasibility of establishing zoning and minimum housing standards for Alabama's rural areas.
  1. Units of local government could revise subdivision regulations to accommodate affordable housing where appropriate. Following careful consideration, a revised and less-restrictive zoning change could be made if (1) the change was practical, (2) the cost impact was substantial, and (3) a significant number of households were affected. For example, the requirement for underground utilities could be waived or the minimum lot size could be reduced.
  2. Revised zoning and subdivision regulations could also recognize modern forms of manufactured and modular housing. Alternative housing types and alternative housing environments should be promoted wherever feasible.
- Expand the level of infrastructure wherever available.
  1. Alabama counties should continue to work closely with ADECA and other appropriate agencies and organizations to develop water and sewer lines and streets.
  2. The State, along with each municipality (if possible), should work to develop a suitable industrial park (and indeed any measure to stimulate economic growth) with public water, public sewer, and adequate roads. This would, at the very least, help communities to be prepared to attract industries, create jobs, and form a foundation for the creation of new housing opportunities.

#### Building Codes

- Modify/mitigate the building code.
  1. A possible solution to this problem would be to modify the Southern Building Code Standards for rehabilitation by allowing improvements to be safe and efficient, but not to new construction standards. While strict compliance criteria could still be followed to prevent

shoddy construction less expensive materials (perhaps recycled fixtures and appliances) could be used.

2. In addition to the easing of new construction standards for rehabilitation, a modified building code could also have clearer, less ambiguous language. It could be written in such a way as to prevent diversity in enforcement which frequently causes delays, costly design requirements, etc. Note: Although the intent of the Southern Building Code Regulations cannot and should not be questioned, the requirements should be limited to a smaller percentage of total housing units. A moderately-relaxed code could even open up some opportunities for enterprising buildings, i.e., perhaps some minority businesses who have had trouble finding a niche in the marketplace.
- Encourage the development of new methodology.
1. Every effort should be made at the State and local levels to encourage builders to propose new construction materials and procedures for possible future use in Alabama. Builders who have been innovative and successful in constructing sound, cost-efficient housing should be recognized for their achievements and their methodology should have widespread dissemination within the building community.

#### Cost Associated With Handicap Compliance

- Continue present policy and enforcement.
1. While some Alabama counties have indicated that the expense of handicap compliance is a barrier to affordable housing, it is not suggested that the State adopt any less-restrictive policy. This issue should be evaluated again in five years.

#### Fire Protection Costs

- Raise property taxes to upgrade rural fire protection.
1. The State of Alabama has recently passed legislation which will raise property taxes by one mill for fire protection purposes. The bill proposes to distribute revenues to city fire department, paid and volunteer fire departments, the State Forestry Commission and the



Alabama Fire College. Additional proceeds would be placed in a Revolving Loan Fund for use by the volunteer fire departments. This legislation should lower the cost of fire insurance throughout Alabama.

#### Lack of Land Use Regulations

- Promote the development of planned mobile home parks.
  1. Mobile homes, despite their generally poor reputation, represent a very viable affordable housing alternative for thousands of Alabama households. Acceptance of this type will only occur if these homes are placed in well-planned and coordinated community developments. These developments should offer infrastructure, landscaping, recreational facilities, etc. A continuation of random unzoned placement of mobile homes will only strengthen the bias. Alabama communities must promote planned mobile home parks.
- Remove substandard housing.
  1. Enforce or enact state and county codes which mandates condemnation of dilapidated structures. Require timely repairs or removal depending on the condition of the structure.

#### Institutional/Financial Constraints

- Ease down payment burden.
  1. AHFA should continue to offer down payment assistance to qualified home buyers.
  2. Other Alabama housing providers/lenders should offer special financial programs designed to assist in the acquisition costs of a new home, i.e., 100 percent financing with a soft second mortgage or forgivable loan.
- Encourage Alabama banks to pursue CRA activities.
  1. CRA activities support housing and revitalization efforts of a community through various programs such as partnerships with nonprofits. Alabama banks should continue to meet CRA requirements and become more innovative in helping to provide affordable housing

opportunities. Increasing the public's awareness of a bank's CRA accomplishments should be emphasized for maximum good will.

- Modify mortgage lending practices.

1. While it has been listed as a barrier to affordable housing by virtually every county, the criteria by which people qualify for loans will likely remain fairly constant. Rather than suggesting that banks should stop looking at a person's credit history, it is suggested that the primary emphasis must be to educate the borrower and the lender. Alabama lenders must be made aware of state and federal programs designed to help low and moderate income borrowers. Borrowers in turn must be educated about home buying, budgeting, debt management, etc.
2. Alabama lending institutions should continue to explore and develop innovative and non-traditional financing and homeownership programs to assist low income households. The Concept of "sweat equity" which has worked well within the non-profit sector (i.e. Habitat for Humanity, Wil-Low non-profit Housing Corporation) is an excellent vehicle to allow serious and dedicated low-income Alabamians the opportunity to buy a home.
3. Additional reform measures that could be utilized (or at least considered) by lenders include: (1) Limiting the number of years by which credit history is based; (2) Relaxing the income ratio limits and extending the amount of time for repayment for persons with good credit histories; and (3) Relaxing lot size requirement regulations.

- Promote in-kind services by lenders.

1. Since it is not very realistic to expect that traditional lending practices will change much over the next few years, the lending institutions should consider offering some valuable in-kind services to assist non-profits (this may fit into the CRA action also). When viable non-profit developers come to a bank for financial backing (i.e. matching funds for a federal grant) the bank could respond with some of the following in-kind services: (1) Waiver of loan origination fees; (2) discounted appraisal fees; (3)

waiver of servicing costs; (4) neighborhood evaluation services; or (5) technical assistance.

#### Fair Housing Issues/Discrimination

- Continue to monitor lenders for possible discrimination practices.
  1. This action or strategy is an on-going effort already being conducted by bank regulatory agencies. It is not suggested that any of Alabama's banks conduct company-wide wholesale lending practices (i.e. redlining) which discriminate against blacks, the elderly, the poor, etc., but these same lenders should continue to educate themselves in dealing with the disadvantaged. There are presently (and will always be) plenty of legitimate reasons to refuse to lend money to a family or individual or business. It is vitally important, however, that Alabama's lenders treat everyone the same.
- Promote and legitimize quality advocacy to overcome impediments or barriers.
  1. While this action or strategy may not deal with housing directly, it is still worth mentioning. Minorities in Alabama still have a long way to go to achieve equality in the workplace, in the community, in government, and in other areas such as housing opportunities. Prejudices have deep roots throughout the State. Much progress, however, has been made in the past few years and more and more Alabama institutions have been influenced by minority actions. Advocates who go to bat for the poor and disadvantaged (primarily Alabama's black population) must be knowledgeable and purposeful in their efforts. They must be persistent and patient at the same time. Discriminatory barriers or impediments in our state cannot be broken down overnight - Alabama should nevertheless be proud of what has been accomplished thus far.

#### The "NIMBY" Syndrome

- Prevent the proliferation of "planned-to-fail" developments.
  1. All new housing developments, including mobile home parks, public housing authority units, patio homes,

etc., must be thoroughly planned before construction ever starts. Projected development areas must be analyzed completely for need, proximity to schools and shopping, social impact on the area, law enforcement requirements, long-term future considerations, growth projections, etc. Projects must be visually pleasing as well. Established homeowners and business people are much more likely to embrace new lower-income housing developments if the projects have feasible short-term and long-term strategies. It is irresponsible to permit unregulated, ill-conceived developments to be built in a community.

### Land Ownership Patterns

- Reform absentee landlord requirements.
  1. Require stricter code-enforcement, cite and fine landlords for renting unsafe and unsanitary below code homes.
  2. For truly absent landlords, allow low-income households the opportunity to "homestead" abandoned homes that can be rehabilitated. Severely dilapidated homes should be removed from a community's housing stock.
- Alter land ownership patterns.
  1. In all honesty, it seems futile to suggest that land owners should suddenly begin to sell off their property for affordable housing developments. That will not happen. Should desirable and affordable property come open for sale, however, local units of government/local housing authorities should be encouraged to acquire such property in advance of rising land costs. Setting aside well-located sites for public housing seems to be a sound investment.

### Local Grantee Responsibilities:

Alabama's CDBG program is required by 24 CFR 570.487(b)(4) to assure that units of local government funded by the State comply with their certifications to affirmatively further fair housing.

We have begun the analysis of impediments process, starting with all FY1995 CDBG grantees funded by the State. As a part of

the State's Letter of Conditional Commitment (LCC) local grantees must document that they have conducted an AI to identify impediments or barriers to fair housing choice, and identify actions or strategies to eliminate those barriers over time. We will collect the local grantee data, review the information, and make any appropriate adjustments to the proposed strategies or actions needed to comply with State and Federal regulations.

Presently local grantee actions include, but are not limited to:

1. Adoption of fair housing resolutions;
2. State declaration of fair housing month;
3. Display fair housing posters and/or information in public buildings;
4. Promotion of the use of the "Equal Housing Opportunity" slogan and logo in the classified ad section of local newspapers;
5. Encourage local boards of realtors to enter into voluntary affirmative marketing agreements or VAMA's, wherever possible;
6. Recently enacted State Fair Housing Law;
7. Sponsor fair housing poster contests, speech contests and writing contests in schools during National Fair Housing month;
8. Display Fair Housing exhibits at local shopping centers, fairs, or exhibitions; and
9. Develop and promote public information programs using local newspapers, radio stations, etc. concerning fair housing choice in local communities.

HOME Program/AHFA:

Additionally, Alabama's HOME program which is administered by the Alabama Housing Finance Authority (AHFA) must document their AFFH actions to fair housing choice regarding affirmative marketing procedures in multifamily housing and all loan applicants, as a condition to be met before any funds can be accessed by AHFA as a state funded recipient.

### Local Grantees Analysis of Impediments:

FY1995 Local CDBG funded recipients through local surveys have to date identified the barriers or impediments to fair housing as follows:

1. Several local communities indicated that the lack of updated zoning policies or the lack of any zoning regulations can hinder the location and/or construction of multifamily and low income family housing or prohibit mobile home parks.
2. Several local communities had not adopted fair housing ordinances or had fair housing resolutions on their books.
3. A number of the communities indicated the need to develop procedures or programs to assist persons who believe they have been denied an opportunity at fair housing choice or have a housing related complaint based on race, sex, handicap or economic status, etc.

### Actions by Local Grantees:

In response to the barriers identified above, the State CDBG program recommends the following FY1995 grantees:

1. Adopt a fair housing ordinance, or at the very least adopt a fair housing resolution advocating fair housing.
2. Undertake a review of existing zoning and land use practices at the local community level for discriminatory policies or practices that potentially affect fair housing choice.
3. Develop and distribute fair housing information and materials to area agencies and organizations such as community action agencies, senior citizens, handicapped housing/income counseling services, and other civic groups, etc.
4. Promote prominent display of posters, fair housing/EEO logos, and other informational material on fair housing choices.

### Summary:

Since the conception and development of the State of Alabama's Consolidated Plan, we have made tremendous gains and improvements in advancing the concept of affirmatively furthering fair housing choices throughout the State of Alabama. As the preceding sections of this fair housing plan have indicated

Alabama is making a sincere effort to ensure fair housing opportunities for all its citizens.

Once the analysis of impediments or barriers to fair housing is completed, state and local grantees are encouraged to communicate actions, strategies, and recommendations to the attention of top policy makers, key government staff, community organizations and the general public. Obtaining strong and broad-based support for any fair housing actions is critical to the long-term success of the state's efforts to affirmatively further fair housing.

Specific Actions to be Undertaken at the State Level

1. Gubernatorial Proclamation of Fair Housing Week.
2. Seminar for HUD funded communities on ways to promote fair housing and how to eliminate or reduce existing impediments.
3. Seminar for lending institutions and realtors on affirmatively furthering fair housing.
4. Work closely with State legislature to establish funding for state level staffing for fair housing.
5. Ensure, through monitoring and grant conditions, that subrecipients have addressed fair housing concerns

## Attachments

### Appendix-One:

State of Alabama Fair Housing Law.

### Appendix-Two:

Agencies and groups participating or providing information in the development of the Consolidated Plan and Fair Housing Analysis (a selected list which is not a complete list of participating groups).

### Appendix-Three:

Suggested Survey/Guide that was used by all local CDBG program grantees.

### Appendix-Four:

Current activities/actions that affirmatively further Fair Housing at the state and local levels.

### Appendix-Five:

State CDBG grantee Fair Housing Compliance checklist.



CHAPTER 8.  
ALABAMA FAIR HOUSING LAW.

## Sec.

- 24-8-1. Short title.
- 24-8-2. Policy of state.
- 24-8-3. Definitions.
- 24-8-4. Unlawful discriminatory housing practices.
- 24-8-5. Discrimination in services, organizations, or facilities relating to business of selling or renting dwellings.
- 24-8-6. Discrimination in residential real estate related transactions.
- 24-8-7. Exemptions.
- 24-8-8. Interference with person in exercise of right granted under chapter.
- 24-8-9. Office to administer provisions and may delegate functions, duties, powers to employees.
- 24-8-10. Powers of office.
- 24-8-11. Procedures for investigation; subpoenas.
- 24-8-12. Filing of complaint; investigation and

## Sec.

- notice; resolution by informal methods; filing of answer; local fair housing law; conciliation agreement; completion of investigation; final administrative disposition; burden of proof; termination of efforts to obtain voluntary compliance.
- 24-8-13. Recommendation for hearing by investigator; order for hearing; parties' right to take civil action; amendment of complaint; subpoenas; refusal to allow discovery; hearing; panel opinion and order; review.
- 24-8-14. Civil action; sale, encumbrance, etc. consummated before issuance of order; relief and award.
- 24-8-15. Similar complaint filed with another agency with authority to investigate violation of chapter.

Effective date. — The act which added this chapter became effective August 8, 1991.

## § 24-8-1. Short title.

This chapter shall be known and may be cited as the "Alabama Fair Housing Law." (Acts 1991, No. 91-659, p. 1248, § 1.)

Cross references. — As to the department of economic and community affairs, see § 41-23-1 et seq.

## § 24-8-2. Policy of state.

Within constitutional limitations, it is the policy of this state to provide for fair housing throughout the state. (Acts 1991, No. 91-659, p. 1248, § 2.)

## § 24-8-3. Definitions.

The following words and phrases used in this chapter shall have the following respective meanings unless the context clearly indicates otherwise:

(1) ADECA. The Alabama Department of Economic and Community Affairs.

(2) COVERED MULTIFAMILY DWELLINGS:

a. Buildings consisting of four or more units if the buildings have one or more elevators; and

b. Ground floor units in other buildings consisting of four or more units.

(3) **DISCRIMINATORY HOUSING PRACTICE.** An act that is unlawful under this chapter.

(4) **DWELLING.** Any building or structure, or portion of any building or structure, which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location on it of any such building or structure, or portion of it.

(5)a. **FAMILIAL STATUS.** One or more individuals who have not attained the age of 18 years and are domiciled with:

1. A parent or another person having legal custody of the individual; or

2. The designee of the parent or other person having the custody, with the written permission of parent or other person.

b. The protections afforded against discrimination on the basis of familial status apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

(6) **HANDICAP.** With respect to a person:

a. A physical or mental impairment which substantially limits one or more of the person's major life activities;

b. A record of having such an impairment; or

c. Being regarded as having an impairment. The term "handicap" excludes current, illegal use of or addiction to a controlled substance as defined by law.

(7) **HOUSING FOR OLDER PERSONS.** Housing:

a. Provided under any state or federal program that the attorney general determines is designed specifically and operated to assist elderly persons, as defined in the state or federal program; or

b. Intended for, and solely occupied by persons 62 years of age or older; or

c. Intended and operated for occupancy by at least one person 55 years of age or older for each unit. In determining whether housing qualifies as housing intended and operated for occupancy by at least one person 55 years of age or older, the Alabama Department of Economic and Community Affairs shall develop regulations which require at least the following factors:

1. The existence of significant facilities and services specifically designed to meet the physical or social needs of older persons, or if the provision of the facilities and services is not practicable, that the housing is necessary to provide important housing opportunities for older persons; and

2. That at least 80 percent of the dwellings are occupied by at least one person 55 years of age or older for each unit; and

3. The publication of and adherence to policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older.

d. Housing does not fail to meet the requirements for housing for older persons by reason of:

1. Persons residing in this housing as of the date of enactment of this chapter who do not meet the requirements of paragraph b or c; or

2. Unoccupied units, provided that these units are reserved for occupancy by persons who meet the new requirements of paragraph b or c.

(8) OFFICE. Office of ADECA.

(9) PERSON. One or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, and fiduciaries.

(10) TO RENT. To lease, to sublease, to let, and otherwise to grant for a consideration the right to occupy premises not owned by the occupant. (Acts 1991, No. 91-659, p. 1248, § 3.)

#### § 24-8-4. Unlawful discriminatory housing practices.

It shall be unlawful:

(1) To refuse to sell or rent after the making of a bona fide offer, to refuse to negotiate for the sale or rental of, or otherwise to make unavailable or deny a dwelling to any person because of race, color, religion, sex, familial status, or national origin;

(2) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with it, because of race, color, religion, sex, familial status, or national origin;

(3) To make, print or publish, or cause to be made, printed, or published, any notice, statement, or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, handicap, familial status, or national origin or an intention to make the preference, limitation, or discrimination;

(4) To represent to any person because of race, color, religion, sex, handicap, familial status, or national origin that any dwelling is not available to inspection, sale or rental when the dwelling is available;

(5) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, handicap, familial status, or national origin;

(6) To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap of:

a. That buyer or renter;

b. A person residing in or intending to reside in that dwelling after it is sold, rented, or made available; or

- c. Any person associated with that buyer or renter;
- (7) To discriminate against a person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with the dwelling, because of a handicap of:
  - a. That person;
  - b. A person residing in or intending to reside in that dwelling after it is sold, rented, or made available; or
  - c. Any person associated with that person. (Acts 1991, No. 91-659, p. 1248, § 4.)

**§ 24-8-5. Discrimination in services, organizations, or facilities relating to business of selling or renting dwellings.**

It shall be unlawful to deny any person access to, or membership or participation in, any multiple listing service, real estate brokers' organization, or other service, organization, or facility relating to the business of selling or renting dwellings or to discriminate against him in the terms or conditions of the access, membership, or participation on account of race, color, religion, sex, handicap, familial status, or national origin. (Acts 1991, No. 91-659, p. 1248, § 5.)

**§ 24-8-6. Discrimination in residential real estate related transactions.**

(a) It shall be unlawful for any person or other entity whose business includes engaging in residential real estate related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of the transaction, because of race, color, religion, sex, handicap, familial status, or national origin.

(b) As used in this section, "residential real estate related transaction" means any of the following:

(1) The making or purchasing of loans or providing other financial assistance:

- a. For purchasing, constructing, improving, repairing, or maintaining a dwelling; or
- b. Secured by residential real estate; or

(2) The selling, brokering or appraising of residential real property.

(c) Nothing in this chapter prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, national origin, sex, handicap, or familial status. (Acts 1991, No. 91-659, p. 1248, § 6.)

**§ 24-8-7. Exemptions.**

(a) The provisions of Sections 24-8-4 and 24-8-6 do not apply to rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of the living quarters as his residence.

(b) The provisions of Sections 24-8-4 and 24-8-6 do not apply to any single-family house sold or rented by an owner when:

(1) The private individual owner does not own more than three single-family houses at any one time; and

(2) In the sale of any single-family house by a private individual owner not residing in the house at the time of the sale or who was not the most recent resident of the house before the sale, the exemption granted by this subsection shall apply only with respect to one sale within a 24-month period; and

(3) A bona fide private individual owner does not own an interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or a right to all or a portion of the proceeds from the sale or rental of more than three single-family houses at any one time.

(c) After August 8, 1991, the sale or rental of a single-family house is excepted from the application of this subsection only if the house is sold or rented:

(1) Without the use in any manner of the sales or rental facilities or the sales or rental services of a real estate broker, agent, or salesman, or of the facilities or services of a person in the business of selling or renting dwellings, or of an employee or agent of a broker, agent, salesman, or person; and

(2) Without publication posting or mailing, after notice, of an advertisement or written notice in violation of this chapter. Nothing in this subsection prohibits the use of attorneys, escrow agents, abstractors, title companies, and other professional assistance as necessary to perfect or transfer this title.

(d) For the purposes of this section, a person is considered to be in the business of selling or renting dwellings if he:

(1) Has, within the preceding 12 months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest in it;

(2) Has, within the preceding 12 months, participated as agent, other than in the sale of his personal residence, in providing sales or rental facilities or sales or rental services in two or more transactions involving the sale or rental of any dwelling or any interest in it; or

(3) Is the owner of any dwelling designed or intended for occupancy by, or occupied by, five or more families.

(e) The provisions of this chapter shall not prohibit a religious organization, association, or society, or any nonprofit institution or organization operated,

supervised, or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental, or occupancy of any dwelling which it owns or operates for other than a commercial purpose to persons of the same religion or from giving preference to those persons, unless membership in the religion is restricted because of race, color, or national origin. The provisions of this chapter shall not prohibit a private club not in fact open to the public, which as an incident to its primary purpose provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of the lodgings to its members or from giving preference to its members.

(f) It is not unlawful under subdivisions (1) or (2) of Section 24-8-4 for any person to deny or limit the rental of housing to persons who pose a real and present threat of substantial harm to themselves, to others, or to the housing itself.

(g) The provisions of this chapter shall not prohibit conduct against a person because the person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined by law.

(h) For purposes of subdivision (6) of Section 24-8-4, the term "discrimination" includes:

(1) A refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or to be occupied by the person if the modifications are necessary to afford that person full enjoyment of the premises, except that in the case of a rental, the landlord, where it is reasonable to do so, may condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted;

(2) A refusal to make reasonable accommodations in rules, policies, practices, or services when such accommodations may be necessary to afford the person equal opportunity to use and enjoy a dwelling; or

(3) In connection with the design and construction of covered multifamily dwellings for first occupancy after the date that is 30 months after the date of enactment of the Fair Housing Amendments Act of 1988, a failure to design and construct those dwellings in such a manner that:

a. The public use and common use portions of such dwelling are readily accessible to and usable by handicapped persons;

b. All the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by handicapped persons in wheelchairs; and

c. All premises within these dwellings contain the following features of adaptive design:

1. An accessible route into and through the dwelling;
2. Light switches, electrical outlets, thermostats and other environmental controls in accessible locations;

3. Reinforcements in the bathroom walls to allow later installation of grab bars; and

4. Usable kitchens and bathrooms that an individual in a wheelchair can maneuver about the space.

(i) Compliance with the appropriate requirements of the American National Standard for Buildings and Facilities Providing Accessibility and Usability for Physically Handicapped People (commonly cited as "ANSI A117.1") suffices to satisfy the requirements of Section 24-8-7(h)(3)c.

(1) If a unit of local government has incorporated into its laws the requirements in subsection (h)(3), compliance with these laws is considered to satisfy the requirements.

(2) A unit of local government may review and approve newly constructed covered multifamily dwellings for the purpose of making determinations as to whether the design and construction requirements of subsection (h)(3) are met.

(3) The office shall encourage, but may not require, units of local government to include in their existing procedures for the review and approval of newly constructed covered multifamily dwellings, determinations as to whether the design and construction of these dwellings are consistent with subsection (h)(3), and shall provide technical assistance to units of local government and other persons to implement the requirements of subsection (h)(3).

(4) Nothing in this chapter may be construed to require the office to review or approve the plans, designs, or construction of all covered multifamily dwellings, to determine whether the design and construction of these dwellings are consistent with the requirements of subsection (h)(3).

(j)(1) Nothing in subsection (i) may be construed to affect the authority and responsibility of the attorney general to receive and process complaints or otherwise engage in enforcement activities under this chapter.

(2) Determinations by the unit of local government under subsection (i) are not conclusive in enforcement proceedings under this chapter.

(k) Nothing in this chapter may be construed to invalidate or limit any rule, regulation, resolution or ordinance of a political subdivision of the state that requires dwellings to be designed and constructed in a manner that affords handicapped persons greater access than is required by this chapter.

(l) Nothing in this chapter requires that a dwelling be made available to an individual whose occupancy would constitute a direct threat to the health or safety of other individuals or whose occupancy would result in substantial physical damage to the property of others.

(m) Nothing in this chapter limits the applicability of any reasonable local, state, or federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling. Owners and managers of dwellings may develop and implement reasonable occupancy and safety standards based on factors such as the number and size of sleeping areas or bedrooms and the overall size of a dwelling unit so long as the standards do not violate local, state, or federal restrictions. The provisions in this chapter regarding familial

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status shall not apply to housing for older persons. The provisions of this chapter shall not prohibit the lease application or similar document from requiring information concerning the number, age, sex, and familial relationship of the applicants and the dwellings intended occupants. The owner or manager may consider these factors in determining payment of utilities. The application also may require disclosure by the applicant of the conviction of any intended occupant for violating any laws pertaining to the illegal manufacture or distribution of a controlled substance as defined in Title 22. (n) The provisions of Section 24-8-4 with respect to discrimination based on sex do not apply to the rental or leasing of dwellings in a single-sex dormitory property. (Acts 1991, No. 91-659, p. 1248, § 7.)

§ 24-8-8. Interference with person in exercise of right granted under chapter.

It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise of, or on account of his having aided or encouraged any other person in the exercise of any right granted under this chapter. (Acts 1991, No. 91-659, p. 1248, § 8.)

§ 24-8-9. Office to administer provisions and may delegate functions, duties, powers to employees.

- (a) The office shall administer the provisions of this chapter.
- (b) The office may delegate any of its functions, duties, and powers to its employees including functions, duties, and powers with respect to investigating, conciliating, hearing, determining, ordering, certifying, reporting, or otherwise acting as to any work, business, or matter under this chapter. (Acts 1991, No. 91-659, p. 1248, § 9.)

§ 24-8-10. Powers of office.

The office has the power to:

- (1) Promulgate regulations necessary for the enforcement of this chapter which may not exceed the requirements of the 1988 Fair Housing Amendments Act (PL 100-430) and any subsequent amendments to it;
- (2) Make studies with respect to the nature and extent of discriminatory housing practices in representative urban, suburban, and rural communities throughout the state;
- (3) Publish and disseminate reports, recommendations, and information derived from the studies;
- (4) Cooperate with and render technical assistance to public or private agencies, organizations, and institutions within the state which are formulating or carrying on programs to prevent or eliminate discriminatory housing practices;



(5) Cooperate with the United States Department of Housing and Urban Development to achieve the purposes of that department and with other federal, state, and local agencies and departments;

(6) Accept reimbursement pursuant to Title 28, United States Code, Section 817, for services rendered to the United States Department of Housing and Urban Development;

(7) Accept gifts or bequests, grants, or other donations, public or private;

(8) Institute proceedings in a court of competent jurisdiction, for cause shown, to seek appropriate temporary or preliminary injunctive relief pending final administrative disposition of a complaint;

(9) Contract with persons and organizations to perform services as it may consider reasonably necessary to effectuate the purposes of this chapter and to accept reimbursement for services rendered pursuant to the contract. However, the office may not delegate its decision making authority to a nongovernmental agency. This decision making authority includes acceptance of complaints, approval of conciliation agreements, dismissal of complaints, final disposition of complaints, or other enforcement powers granted by this chapter;

(10) Make contractual agreements within the scope and authority of this chapter with any agency of the federal government. An agreement with the Department of Housing and Urban Development may include provisions under which said office shall refrain from processing a charge in this state in any class specified in the agreement;

(11) Administer the programs and activities relating in a manner affirmatively to further the policies of this chapter. (Acts 1991, No. 91-659, p. 1248, § 10.)

**§ 24-8-11. Procedures for investigation; subpoenas.**

(a) In conducting an investigation, the office shall have access at all reasonable times to premises, records, documents, individuals, and other evidence or possible sources of evidence and may examine, record, and copy the materials and take and record the testimony or statements of persons as are reasonably necessary for the furtherance of the investigation, provided the office first complies with the constitutional provisions relating to unreasonable searches and seizures. The office may issue subpoenas to compel its access to or the production of the materials or the appearance of the persons and may issue interrogatories to a respondent, to the same extent and subject to the same limitations as would apply if the subpoenas or interrogatories were issued or served in aid of a civil action in court. The office may administer oaths. Any examination, recording, copying of materials, and the taking and recording of testimony or statements of persons as reasonably are necessary for the furtherance of the investigation must be solely related to the complaint for which the subpoena was issued.

(b) Upon written application to the office, a respondent is entitled to the issuance of a reasonable number of subpoenas by and in the name of the office

to the same extent and subject to the same limitations as subpoenas issued by the office itself. A subpoena issued at the request of a respondent shall show on its face the name and address of the respondent and shall state that it was issued at his request.

(c) Within five days after service of a subpoena upon any person, the person may petition the office to revoke or modify the subpoena. The office shall grant the petition if it finds that the subpoena requires appearance or attendance at an unreasonable time or place, that it requires production of evidence which does not relate to any matter under investigation, that it does not describe with sufficient particularity the evidence to be produced, or that compliance would be unduly onerous or for other good reason.

(d) In case of refusal to obey a subpoena, the office or the person at whose request the subpoena was issued may petition for its enforcement in the circuit court for the county in which the person to whom the subpoena was addressed resides, was served, or transacts business.

(e) Witnesses summoned by a subpoena under this chapter are entitled to the same witness and mileage fees as witnesses in proceedings in court. Fees payable to a witness summoned by a subpoena issued at the request of a party must be paid by that party or, where a party is unable to pay the fees, by the office. (Acts 1991, No. 91-659, p. 1248, § 11.)

**§ 24-8-12. Filing of complaint; investigation and notice; resolution by informal methods; filing of answer; local fair housing law; conciliation agreement; completion of investigation; final administrative disposition; burden of proof; termination of efforts to obtain voluntary compliance.**

(a) A person who claims to have been injured by a discriminatory housing practice or who believes that he may be injured by a discriminatory housing practice that is about to occur may file a complaint with the office. Complaints must be in writing and shall contain information and be in a form required by the office. Upon receipt of a complaint, the office shall serve notice upon the aggrieved person of the time limits and choices of forums provided under this chapter and shall furnish a copy to the person who allegedly committed the discriminatory housing practice or is about to commit the alleged discriminatory housing practice and advise him of the procedural rights and obligations under the law. Within 30 days after receiving a complaint, or within 30 days after the expiration of any period of reference under subsection (c), the office shall investigate the complaint and give notice in writing to the person aggrieved whether it intends to resolve it. If the office decides to resolve the complaint, it shall proceed to try to eliminate or correct the alleged discriminatory housing practice by informal methods of conference, conciliation, and persuasion. If practicable, conciliation meetings must be held in the cities or other localities where the discriminatory housing practices allegedly occurred. Nothing said or done in the course of the informal endeavors may be made public or used as evidence in a subsequent proceeding under this

chapter without the written consent of the persons concerned. An employee of the office who makes public any information in violation of this provision is guilty of a misdemeanor punishable by a fine of not more than \$200.00, or imprisoned for not more than 30 days.

(b) A complaint under subsection (a) must be filed within 180 days after the alleged discriminatory housing practice occurred. The complaint must be in writing and shall state the facts upon which the allegations of a discriminatory housing practice are based. A complaint may be reasonably and fairly amended at any time. A respondent may file an answer to the complaint against him, not later than 10 days after receipt of notice, and may be amended reasonably and fairly by the respondent at any time. Both complaint and answer must be verified.

(c) Wherever a local fair housing law provides rights and remedies for alleged discriminatory housing practices which substantially are equivalent to the rights and remedies provided in this chapter, the office shall notify the appropriate local agency of any complaint filed under this chapter which appears to constitute a violation of the local fair housing law, and the office shall take no further action with respect to the complaint if the local law enforcement official, within 30 days from the date the alleged offense was brought to his attention, has commenced proceedings in the matter. In no event may the office take further action unless it certifies that in its judgment, under the circumstances of the particular case, the protection of the rights of the parties or the interest of justice require the action. Complaints referred to the office by the Department of Housing and Urban Development may not be referred by the office to a local agency.

(d) Any conciliation agreement arising out of conciliation efforts by the office must be an agreement between the respondent and the complainant and is subject to the approval of the office. Each conciliation agreement must be made public unless the complainant and respondent otherwise agree and the office determines that disclosure is not required to further the purposes of this chapter.

(e) The investigation must be completed in no more than 100 days after receipt of the complaint. If the office is unable to complete the investigation within 100 days, it shall notify the complainant and respondent in writing of the reasons for not doing so.

(f) The office shall make final administrative disposition of a complaint within one year of the date of receipt of a complaint unless it is impractical to do so. If the office is unable to do so, it shall notify the complainant and respondent, in writing, of the reasons for not doing so.

(g) In any proceeding brought pursuant to this section, the burden of proof is on the complainant.

(h) Whenever an action is filed by an individual in court pursuant to this section or Section 24-8-14 comes to trial, the office shall terminate all efforts to obtain voluntary compliance. (Acts 1991, No. 91-659, p. 1248, § 12.)

**§ 24-8-13. Recommendation for hearing by investigator; order for hearing; parties' right to take civil action; amendment of complaint; subpoenas; refusal to allow discovery; hearing; panel opinion and order; review.**

(a) If not sooner resolved, the investigator, upon completion of his investigation, shall submit to ADECA a statement of the facts disclosed by his investigation and recommend either that the complaint be dismissed or that a panel of office members be designated to hear the complaint. ADECA, after review of the case file and the statement and recommendation of the investigator, shall issue an order either of dismissal or for a hearing, which is not subject to judicial or other further review.

(b) If the order is for dismissal, ADECA shall mail a copy of the order to the complainant and the respondent at their last known addresses. The complainant may bring an action against the respondent in circuit court within 90 days of the date of the dismissal or within one year from the date of the violation alleged, whichever occurs later, to enforce the rights granted or protected by this chapter and to seek relief as provided for in Section 24-8-14.

(c)(1) If the order is for a hearing, ADECA shall attach to it a notice and a copy of the complaint and require the respondent to answer the complaint at a hearing at a time and place specified in the notice and shall serve upon the respondent a copy of the order, the complaint, and the notice.

(2) Either party may elect to have the claims asserted in the complaint decided in a civil action. ADECA notice must be sent to all parties and inform them of their right to take civil action. An election must be made within 20 days after receipt of the notice. A party making this election shall notify ADECA and all other parties. If an election is made for a civil action, ADECA shall, within 30 days from the date of election, commence and maintain a civil action pursuant to Section 24-8-14 on behalf of the aggrieved person.

(d) At any time before a hearing, a complaint may be amended by ADECA upon the request of the investigator or of the complainant or of the respondent. Complaints may be amended during a hearing only upon a majority vote of the panel of office members for the hearing.

(e) Upon request by any party, ADECA shall issue appropriate subpoenas or subpoenas duces tecum to any witnesses or other custodians of documents desired to be present at the hearing, or at prehearing depositions, unless ADECA determines that issuance of the subpoenas or subpoenas duces tecum would be unreasonably or unduly burdensome.

(f) Upon notification by any party that any party or witness has failed to permit access, failed to comply with a subpoena or subpoena duces tecum, refused to have his deposition taken, refused to answer interrogatories, or otherwise refused to allow discovery, the office, upon notice to the party or witness, shall apply to a court of competent jurisdiction for an order requiring discovery and other good faith compliance unless the office determines that the discovery would be unreasonably or unduly burdensome.

(g) ADECA shall designate a panel of three persons to hear the complaint.

(h) At any hearing held pursuant to this section, the case in support of the complaint must be presented before the panel by one or more of the offices' employees or agents or by legal representatives of the complaining party. Endeavors at conciliation by the investigator may not be received into evidence nor otherwise made known to the members of the panel.

(i) The respondent shall submit a written answer to the complaint and appear at the hearing in person or by counsel and may submit evidence. The respondent may amend his answer reasonably and fairly.

(j) The complainant must be permitted to be present and submit evidence.

(k) Proceedings under this section are subject to the provisions of the Alabama Administrative Procedure Act, and in the case of conflict between the provisions of this chapter and the Alabama Administrative Procedure Act, the provisions of the Alabama Administrative Procedure Act shall govern. A recording of the proceedings must be made, which may be transcribed subsequently upon request and payment of a reasonable fee by the complainant or the respondent. The fee must be set by the office or upon motion of the panel, in which case copies of the transcription must be made available to the complainant or the respondent upon request and payment of a reasonable fee to be set by the office.

(l) If, upon all the evidence at the hearing, the panel shall find that the respondent has engaged in any unlawful discriminatory practice, it shall state its findings of fact and serve upon the complainant and the respondent in the name of the office an opinion and order for appropriate relief which may include that the unlawful discriminatory practice be discontinued, actual damages, civil penalties which may not be greater than civil penalties established by the Federal Fair Housing Act in Section 812 and reasonable attorney's fees. The office may retain jurisdiction of the case until it is satisfied of compliance by the respondent of its order.

(m) If, upon all the evidence at the hearing, the panel finds that the respondent has not engaged in any unlawful discriminatory practice, the panel shall state its findings of fact and serve upon the complainant and the respondent an opinion and order dismissing the complaint as to the respondent. A prevailing respondent may apply to the office for an award of reasonable attorney's fees and costs.

(n) A copy of the opinion and order of the office shall be delivered in all cases to such other public officers as the office considers proper. Copies of the opinion and order must be available to the public for inspection upon request, and copies must be made available to any person upon payment of a reasonable fee set by the office.

(o)(1) If an application for review is made to the office within 14 days from the date the order of the office has been given, the office, for good cause shown, shall review the order and evidence, receive further evidence, rehear the parties or their representatives, and if proper, amend the order.

(2) Either party to the dispute, within 30 days after receipt of notice to be sent by registered mail of the order, but not after that time, may appeal

from the decision of the office to the circuit court of the county in which the hearing occurred, or in which the respondent resides or has his principal office. In case of an appeal from the decision of the office, the appeal shall operate as a supersedeas for 30 days only, unless otherwise ordered by the court, and after that the respondent is required to comply with the order involved in the appeal or certification until the questions at issue in it have been determined fully in accordance with the provisions of this chapter.

(3) The office may institute a proceeding for enforcement of its order of subsection (1), or its amended order of subdivision (1) after 30 days from the day of the order, by filing a petition in the circuit court of the county in which the hearing occurred, or where any person against whom the order is entered resides or transacts business.

(4) If no appeal under subdivision (2) is initiated, the office may obtain a decree of the court for enforcement of its order upon a showing that a copy of the petition for enforcement was served upon the party subject to the dictates of the office's order. (Acts 1991, No. 91-659, p. 1248, § 13.)

**§ 24-8-14. Civil action; sale, encumbrance, etc. consummated before issuance of order; relief and award.**

(a) A civil action must be commenced within one year after the alleged discriminatory housing practice has occurred. However, the court shall continue a civil case brought pursuant to this section, from time to time, before bringing it to trial if the court believes that the conciliation efforts of the office or local agency are likely to result in satisfactory settlement of the discriminatory housing practice complained of in the complaint made to the office or to the local agency and which practice forms the basis for the action in court. Any sale, encumbrance, or rental consummated before the issuance of any court order issued under the authority of this chapter and involving a bona fide purchaser, encumbrances, or tenant without actual notice of the existence of the filing of a complaint or civil action under the provisions of this chapter are not affected. A civil action may be commenced by an aggrieved person whether or not a complaint has been filed with the office.

(b) The court may grant as relief, as it considers appropriate, any permanent or temporary injunction, temporary restraining order, or other order and may award the plaintiff actual damages, and punitive damages, together with court costs and reasonable attorney's fees in the case of a prevailing party, if the prevailing party in the opinion of the court is not financially able to assume the attorney's fees. (Acts 1991, No. 91-659, p. 1248, § 14.)

**§ 24-8-15. Similar complaint filed with another agency with authority to investigate violation of chapter.**

Before accepting any complaint under this chapter, the office shall determine if the complainant has filed a similar complaint with the Federal Home Loan Bank Board, the Comptroller of the Currency, the Federal Deposit Insurance Corporation of the Federal Reserve System, the United States Department of Housing and Urban Development, or any other agency with authority to investigate and resolve complaints alleging a violation of this chapter. If a complaint has been filed or is filed, subsequently the office shall coordinate efforts to resolve the complaint with that agency in order to avoid multiple investigations of the respondent. (Acts 1991, No. 91-659, p. 1248, § 15.)

# CODE OF ALABAMA

## 1975

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1995 Cumulative Supplement

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ANNOTATED

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*Prepared by*

The Editorial Staff of the Publishers

*Under the Direction of*

D. S. Tussey, R. W. Walter, W. L. Jackson, M. A. Sancilio,  
J. H. Runkle, and L. A. Burckell

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VOLUME 15

1992 REPLACEMENT VOLUME

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*Including Acts through the 1995 Regular Session and  
annotations taken through Southern Reporter,  
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Place in Pocket of Corresponding Volume of Main Set.  
This Supersedes Previous Supplement, Which  
May Be Retained for Reference Purposes.

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The Michie Company  
Law Publishers  
Charlottesville, Virginia  
1995



(7) Exercise any additional powers, rights, and functions specified for municipal housing authorities created under Sections 24-1-20 to 24-1-45, inclusive. All laws applicable to housing authorities created under Title 24, for municipalities and the commissioner of the authorities shall be applicable to the authority, unless a different meaning clearly appears from the context.

The commission may exercise all appointing and other powers with respect to an Indian Housing Authority that are vested in the Chief Executive Officer and governing body of a municipality under Title 24, with respect to municipal housing authorities.

Rentals and tenant selection associated with projects of the authority shall be in accordance with Title 24, with respect to municipal housing authorities. (Acts 1993, No. 93-351, § 2(c).)

**§ 24-7A-4. Area of operation.**

Subject to the limitations of this section, the authority may operate anywhere in the State of Alabama that is an Indian area. The authority shall not undertake any housing project or projects within the area of operation of any city, county, or regional housing authority unless a resolution is adopted by the city, county, or regional housing authority declaring that there is a need for the authority to exercise its powers within the city, county, or regional housing authority's area of operation. (Acts 1993, No. 93-351, § 2(d).)

## CHAPTER 8.

## ALABAMA FAIR HOUSING LAW.

**Sec.**

**24-8-3. Definitions.**

24-8-5. Discrimination in services, organizations, or facilities relating to business of selling or renting dwellings.

**24-8-7. Exemptions.**

**24-8-8. Interference with person in exercise of right granted under chapter.**

24-8-10. Powers of office.

### § 24-8-3. Definitions.

The following words and phrases used in this chapter shall have the following respective meanings:

(1) ADECA. The Alabama Department of Economic and Community Affairs.

(2) COVERED MULTIFAMILY DWELLINGS:..

a. Buildings consisting of four or more units if the buildings have one or more elevators; and

b. Ground floor units in other buildings consisting of four or more units.

**Sec.**

24-8-12. Filing of complaint; investigation and notice; resolution by informal methods; filing of answer; local fair housing law; conciliation agreement; completion of investigation; final administrative disposition; burden of proof; termination of efforts to obtain voluntary compliance.

(3) DISCRIMINATORY :  
chapter.

(4) DWELLING. Any structure, which is occupied as a residence by one or more persons, for sale or lease for the purpose of dwelling, or portion of such structure, or portion of

(5) FAMILIAL STATUS. E age of 18 years and ar

1. A parent or a  
or

2. The designee  
the written permis

b. The protection of familial status apply to securing legal custody of children under 18 years.

(6) **HANDICAP.** With reference to a person, a physical or mental condition which results in the person's being less able than most persons to perform the usual activities of life and to engage in the usual occupations of the community, and which is not the result of the person's voluntary action or of the person's fault or of the fault of another person.

- b. A record of having been
- c. Being regarded as a person

excludes current, illegals as defined by law.

(7) HOUSING FOR OLDER:  
a. Provided under:

General determines :  
persons, as defined in:  
b. Intended for, an

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3. The publicatio  
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d. Housing does not displace persons by reason of:

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e buildings have one or  
g of four or more units.

(3) DISCRIMINATORY HOUSING PRACTICE. An act that is unlawful under this chapter.

(4) DWELLING. Any building or structure, or portion of any building or structure, which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location on it of any such building or structure, or portion of it.

(5) FAMILIAL STATUS. a. One or more individuals who have not attained the age of 18 years and are domiciled with:

1. A parent or another person having legal custody of the individual; or
2. The designee of the parent or other person having the custody, with the written permission of parent or other person.

b. The protections afforded against discrimination on the basis of familial status apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

(6) HANDICAP. With respect to a person:

- a. A physical or mental impairment which substantially limits one or more of the person's major life activities;
- b. A record of having such an impairment; or
- c. Being regarded as having an impairment. The term "handicap" excludes current, illegal use of or addiction to a controlled substance as defined by law.

(7) HOUSING FOR OLDER PERSONS. Housing:

a. Provided under any state or federal program that the Attorney General determines is designed specifically and operated to assist elderly persons, as defined in the state or federal program; or

b. Intended for, and solely occupied by persons 62 years of age or older; or

c. Intended and operated for occupancy by at least one person 55 years of age or older for each unit. In determining whether housing qualifies as housing intended and operated for occupancy by at least one person 55 years of age or older, ADECA shall develop regulations which require at least the following factors:

1. The existence of significant facilities and services specifically designed to meet the physical or social needs of older persons, or if the provision of the facilities and services is not practicable, that the housing is necessary to provide important housing opportunities for older persons;

2. That at least 80 percent of the dwellings are occupied by at least one person 55 years of age or older for each unit; and

3. The publication of and adherence to policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older.

- d. Housing does not fail to meet the requirements for housing for older persons by reason of:

1. Persons residing in this housing as of September 13, 1988, who do not meet the requirements of paragraph b or c; or

2. Unoccupied units, provided that these units are reserved for occupancy by persons who meet the new requirements of paragraph b or c.

(8) OFFICE. Office of ADECA.

(9) PERSON. One or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, and fiduciaries.

(10) TO RENT. To lease, to sublease, to let, and otherwise to grant for a consideration the right to occupy premises not owned by the occupant. (Acts 1991, No. 91-659, p. 1248, § 3; Acts 1995, No. 95-676, § 1.)

The 1995 amendment, which became effective without the Governor's signature under § 125 of the constitution on August 1, 1995, in subdivision (7), substituted "ADECA" for "the Alabama department of economic and commu-

nity affairs" in the second sentence of paragraph c, and substituted "September 13, 1988" for "the date of enactment of this chapter" in subparagraph d 1.

**§ 24-8-5. Discrimination in services, organizations, or facilities relating to business of selling or renting dwellings.**

It shall be unlawful to deny any person access to, or membership or participation in, any multiple listing service, real estate brokers' organization, or other service, organization, or facility relating to the business of selling or renting dwellings or to discriminate against him or her in the terms or conditions of the access, membership, or participation on account of race, color, religion, sex, handicap, familial status, or national origin. (Acts 1991, No. 91-659, p. 1248, § 5; Acts 1995, No. 95-676, § 1.)

The 1995 amendment, effective without the Governor's signature under § 125 of the consti-

tution on August 1, 1995, inserted "or her" near the middle of this section.

**§ 24-8-7. Exemptions.**

(a) Except for subdivision (3) of Section 24-8-4, Sections 24-8-4 and 24-8-6 do not apply to rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of the living quarters as his or her residence.

(b) Sections 24-8-4 and 24-8-6 do not apply to any single-family house sold or rented by an owner when:

(1) The private individual owner does not own more than three single-family houses at any one time; and

(2) In the sale of any single-family house by a private individual owner not residing in the house at the time of the sale or who was not the most recent resident of the house before the sale, the exemption granted by this

subsection shall period; and

(3) A bona fide is there owned or voluntary agreement the sale or rental

(c) After August excepted from the a rented without both

(1) The use in a rental services of facilities or servi dwellings, or of a person.

(2) The publicat or written notice prohibits the use and other professi title.

(d) For the purpo business of selling c stances:

(1) The person principal in three dwelling or any in

(2) The person agent, other than : sales or rental facil sale or rental of ar

(3) The person : occupancy by, or oc

(e) This chapter sh society, or any nonpr controlled by or in c society, from limiting owns or operates for religion or from givin religion is restricted shall not prohibit a p incident to its primar other than a commerc lodgings to its membe

(f) This chapter sh person has been conv manufacture or distri

(g) For purposes of tion" includes any of

§ 24-8-7

§ 24-8-7

ALABAMA FAIR HOUSING LAW

§ 24-8-7

subsection shall apply only with respect to one sale within a 24-month period; and

(3) A bona fide private individual owner does not own an interest in, nor is there owned or reserved on the owner's behalf, under any express or voluntary agreement, title to or a right to all or a portion of the proceeds from the sale or rental of more than three single-family houses at any one time.

(c) After August 8, 1991, the sale or rental of a single-family house is excepted from the application of this subsection only if the house is sold or rented without both of the following:

(1) The use in any manner of the sales or rental facilities or the sales or rental services of a real estate broker, agent, or salesperson, or of the facilities or services of a person in the business of selling or renting dwellings, or of an employee or agent of a broker, agent, salesperson, or person.

(2) The publication, posting, or mailing, after notice, of an advertisement or written notice in violation of this chapter. Nothing in this subsection prohibits the use of attorneys, escrow agents, abstractors, title companies, and other professional assistance as necessary to perfect or transfer this title.

(d) For the purposes of this section, a person is considered to be in the business of selling or renting dwellings under any of the following circumstances:

(1) The person has, within the preceding 12 months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest in it.

(2) The person has, within the preceding 12 months, participated as agent, other than in the sale of his or her personal residence, in providing sales or rental facilities or services in two or more transactions involving the sale or rental of any dwelling or any interest in it.

(3) The person is the owner of any dwelling designed or intended for occupancy by, or occupied by, five or more families.

(e) This chapter shall not prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental, or occupancy of any dwelling which it owns or operates for other than a commercial purpose to persons of the same religion or from giving preference to those persons, unless membership in the religion is restricted because of race, color, or national origin. This chapter shall not prohibit a private club not in fact open to the public, which as an incident to its primary purpose provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of the lodgings to its members or from giving preference to its members.

(f) This chapter shall not prohibit conduct against a person because the person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined by law.

(g) For purposes of subdivision (6) of Section 24-8-4, the term "discrimination" includes any of the following conduct:

(1) A refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or to be occupied by the person if the modifications are necessary to afford that person full enjoyment of the premises, except that in the case of a rental, the landlord, where it is reasonable to do so, may condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted.

(2) A refusal to make reasonable accommodations in rules, policies, practices, or services when accommodations may be necessary to afford the person equal opportunity to use and enjoy a dwelling.

(3) In connection with the design and construction of covered multifamily dwellings for first occupancy after the date that is 30 months after the date of enactment of the Fair Housing Amendments Act of 1988, a failure to design and construct those dwellings in such a manner that:

a. The public use and common use portions of the dwelling are readily accessible to and usable by handicapped persons;

b. The dwelling has at least one building entrance on an accessible route unless it is impracticable to do so because of the terrain or unusual characteristics of the site;

c. All the doors designed to allow passage into and within all premises within the dwellings are sufficiently wide to allow passage by handicapped persons in wheelchairs; and

d. All premises within these dwellings contain the following features of adaptive design:

1. An accessible route into and through the dwelling;

2. Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;

3. Reinforcements in the bathroom walls to allow later installation of grab bars; and

4. Usable kitchens and bathrooms that an individual in a wheelchair can maneuver about the space.

(h) Compliance with the appropriate requirements of the American National Standard for Buildings and Facilities Providing Accessibility and Usability for Physically Handicapped People (commonly cited as "ANSI A117.1") suffices to satisfy the requirements of subsection (g)(3)c.

(1) If a unit of local government has incorporated into its laws the requirements in subsection (g)(3), compliance with these laws is considered to satisfy the requirements.

(2) A unit of local government may review and approve newly constructed covered multifamily dwellings for the purpose of making determinations as to whether the design and construction requirements of subsection (g)(3) are met.

(3) The office shall encourage, but may not require, units of local government to include in their existing procedures for the review and approval of newly constructed covered multifamily dwellings, determinations as to whether the design and construction of these dwellings are consistent with

subsection (g)(3), and government and other (g)(3).

(4) Nothing in this review or approve the family dwellings, to do dwellings are consist

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(2) Determinations  
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(j) Nothing in this chapter requires dwellings to be handicapped persons gr

(k) Nothing in this chapter requires that a dwelling occupancy would constitute a dwelling for individuals or whose occupancy is the property of others.

(1) Nothing in this chapter, state, or federal restriction permitted to occupy a dwelling, develop and implement factors such as the number, overall size of a dwelling, state, or federal restriction status shall not apply to prohibit the lease application concerning the number, and the dwellings' intention these factors in determining require disclosure by the tenant for violating any laws pertaining to a controlled substance.

(m) Section 24-8-4 will apply to the rental or lease (Acts 1991, No. 91-659, § 1).

The 1995 amendment, which was adopted without the Governor's signature, amended § 125 of the constitution on the subject of eminent domain. It deleted "The provisions of" and substituted "shall" for "may" in the first section; substituted "shall" for "may" in the second section; added "Except as otherwise provided in Section 24-8-4" in the third section; and substituted "the owner's behalf" for "the public use"

handicapped person, or to be occupied by and that person full rental, the landlord, for a modification is to the condition and tear excepted.

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subsection (g)(3), and shall provide technical assistance to units of local government and other persons to implement the requirements of subsection (g)(3).

(4) Nothing in this chapter shall be construed to require the office to review or approve the plans, designs, or construction of all covered multifamily dwellings, to determine whether the design and construction of these dwellings are consistent with the requirements of subsection (g)(3).

(i)(1) Nothing in subsection (h) shall be construed to affect the authority and responsibility of the Attorney General to receive and process complaints or otherwise engage in enforcement activities under this chapter.

(2) Determinations by the unit of local government under subsection (h) are not conclusive in enforcement proceedings under this chapter.

(j) Nothing in this chapter shall be construed to invalidate or limit any rule, regulation, resolution, or ordinance of a political subdivision of the state that requires dwellings to be designed and constructed in a manner that affords handicapped persons greater access than is required by this chapter.

(k) Nothing in this chapter with respect to discrimination based on handicap requires that a dwelling be made available to an individual whose occupancy would constitute a direct threat to the health or safety of other individuals or whose occupancy would result in substantial physical damage to the property of others.

(l) Nothing in this chapter limits the applicability of any reasonable local, state, or federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling. Owners and managers of dwellings may develop and implement reasonable occupancy and safety standards based on factors such as the number and size of sleeping areas or bedrooms and the overall size of a dwelling unit so long as the standards do not violate local, state, or federal restrictions. The provisions in this chapter regarding familial status shall not apply to housing for older persons. This chapter shall not prohibit the lease application or similar document from requiring information concerning the number, age, sex, and familial relationship of the applicants and the dwellings' intended occupants. The owner or manager may consider these factors in determining payment of utilities. The application also may require disclosure by the applicant of the conviction of any intended occupant for violating any laws pertaining to the illegal manufacture or distribution of a controlled substance as defined in Title 22.

(m) Section 24-8-4 with respect to discrimination based on sex does not apply to the rental or leasing of dwellings in a single-sex dormitory property. (Acts 1991, No. 91-659, p. 1248, § 7; Acts 1995, No. 95-676, § 1.)

The 1995 amendment, which became effective without the Governor's signature under § 125 of the constitution on August 1, 1995, deleted "The provisions of" throughout this section; substituted "shall" for "may" throughout this section; added "Except for subdivision (3) of Section 24-8-4" in subsection (a); substituted "the owner's behalf" for "his behalf" in

subdivision (b)(3); in subsection (c), added "without both of the following" in the introductory language, deleted "without" preceding "The use" in subdivision (1), and deleted "without" preceding "The publication" in the first sentence of subdivision (2); in subsection (d), substituted "under any of the following circumstances" for "if he" in the introductory language,

added "The person" in subdivisions (1), (2), and (3), and deleted "sales or rental" preceding "services" in subdivision (2); deleted former subsection (f) which related to denying or limiting the rental of housing to persons who posed a threat of harm; in subsection (g), added "any of the following conduct" in the introductory language, and added paragraph (3)b; in subsection (h), substituted "subsection (g)(3)c" for "section 24-8-7 (h)(3)c" in the introductory language, and substituted "subsection (g)(3)" for

"subsection (h)(3)" throughout the subsection; substituted "subsection (h)" for "subsection (i)" in subdivision (i)(1); inserted "with respect to discrimination based on handicap" in subsection (k); substituted "does" for "do" in subsection (m); and made nonsubstantive changes.

Code Commissioner's note. — In 1995, the Code Commissioner inserted "subsection (h)" for "subsection (i)" in subdivision (2) of subsection (i) to reference the apparently intended subsection.

#### § 24-8-8. Interference with person in exercise of right granted under chapter.

It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the enjoyment of, exercise of, or the aid or encouragement of any other person in the exercise of any right granted under this chapter. (Acts 1991, No. 91-659, p. 1248, § 8; Acts 1995, No. 95-676, § 1.)

The 1995 amendment, which became effective without the Governor's signature under § 125 of the constitution on August 1, 1995,

inserted "enjoyment of," and substituted "the aid or encouragement of" for "on account of his having aided or encouraged."

#### § 24-8-10. Powers of office.

The office may do any of the following:

- (1) Promulgate regulations necessary for the enforcement of this chapter which shall not exceed the requirements of the 1988 Fair Housing Amendments Act (Pub. L. No. 100-430) and any subsequent amendments to it.
- (2) Make studies with respect to the nature and extent of discriminatory housing practices in representative urban, suburban, and rural communities throughout the state.
- (3) Publish and disseminate reports, recommendations, and information derived from the studies.
- (4) Cooperate with and render technical assistance to public or private agencies, organizations, and institutions within the state which are formulating or carrying on programs to prevent or eliminate discriminatory housing practices.
- (5) Cooperate with the United States Department of Housing and Urban Development to achieve the purposes of that department and cooperate with other federal, state, and local agencies and departments.
- (6) Accept reimbursement for services rendered to the United States Department of Housing and Urban Development.
- (7) Accept gifts or bequests, grants, or other donations, public or private.
- (8) Institute proceedings in a court of competent jurisdiction, for cause shown, to seek appropriate temporary or preliminary injunctive relief pending final administrative disposition of a complaint.
- (9) Contract with persons and organizations to perform services as it may consider reasonably necessary to effectuate the purposes of this chapter and to accept reimbursement for services rendered pursuant to the contract.

However, the office nongovernmental assistance of complainants, final complaints, final granted by this chapter.

(10) Make contracts chapter with any agency Department of Housing under which the office any class specified.

(11) Affirmatively policies of this chapter 95-676, § 1.)

The 1995 amendment, effective without the Governor's signature under § 125 of the constitution substituted "may do any c" "has the power to" in the language; in subdivision (1), substituted "may" and substituted "(PL 100-430)"; inserted

#### § 24-8-12. Filing of information law; c tion; f termin

(a) A person who complains practice, or who believes housing practice that Complaints shall be in required by the office. upon the aggrieved person under this chapter and allegedly committed to the alleged discriminatory rights and obligation complaint, or within 30 days under subsection (c), to in writing to the person decides to resolve the the alleged discriminatory conciliation, and persuade in the cities or other allegedly occurred. No endeavors may be made under this chapter with

However, the office shall not delegate its decision making authority to a nongovernmental agency. This decision making authority includes acceptance of complaints, approval of conciliation agreements, dismissal of complaints, final disposition of complaints, or other enforcement powers granted by this chapter.

(10) Make contractual agreements within the scope and authority of this chapter with any agency of the federal government. An agreement with the Department of Housing and Urban Development may include provisions under which the office shall refrain from processing a charge in this state in any class specified in the agreement.

(11) Affirmatively administer the programs and activities to further the policies of this chapter. (Acts 1991, No. 91-659, p. 1248, § 10; Acts 1995, No. 95-676, § 1.)

The 1995 amendment, which became effective without the Governor's signature under § 125 of the constitution on August 1, 1995, substituted "may do any of the following" for "has the power to" in the introductory language; in subdivision (1), substituted "shall" for "may" and substituted "(Pub. L. No. 100-430)" for "(PL 100-430)"; inserted "cooperate" follow-

ing "department and" in subdivision (5); deleted "pursuant to Title 28, United States Code, section 817" following "reimbursement" in subdivision (6); substituted "shall" for "may" in the second sentence of subdivision (9); in subdivision (11), added "Affirmatively," and deleted "relating in a manner affirmatively" following "activities"; and made nonsubstantive changes.

**§ 24-8-12. Filing of complaint; investigation and notice; resolution by informal methods; filing of answer; local fair housing law; conciliation agreement; completion of investigation; final administrative disposition; burden of proof; termination of efforts to obtain voluntary compliance.**

(a) A person who claims to have been injured by a discriminatory housing practice, or who believes that he or she may be injured by a discriminatory housing practice that is about to occur, may file a complaint with the office. Complaints shall be in writing and shall contain information and be in a form required by the office. Upon receipt of a complaint, the office shall serve notice upon the aggrieved person of the time limits and choices of forums provided under this chapter and shall furnish a copy of the complaint to the person who allegedly committed the discriminatory housing practice or is about to commit the alleged discriminatory housing practice and serve notice of the procedural rights and obligations under the law. Within 30 days after receiving a complaint, or within 30 days after the expiration of any period of reference under subsection (c), the office shall investigate the complaint and give notice in writing to the person aggrieved whether it intends to resolve it. If the office decides to resolve the complaint, it shall proceed to try to eliminate or correct the alleged discriminatory housing practice by informal methods of conference, conciliation, and persuasion. If practicable, conciliation meetings must be held in the cities or other localities where the discriminatory housing practices allegedly occurred. Nothing said or done in the course of the informal endeavors may be made public or used as evidence in a subsequent proceeding under this chapter without the written consent of the persons concerned. An



employee of the office who makes public any information in violation of this provision is guilty of a misdemeanor punishable by a fine of not more than two hundred dollars (\$200), or imprisoned for not more than 30 days.

(b) A complaint under subsection (a) must be filed within 180 days after the alleged discriminatory housing practice occurred. The complaint must be in writing and shall state the facts upon which the allegations of a discriminatory housing practice are based. A complaint may be reasonably and fairly amended at any time. A respondent may file an answer to the complaint against him or her, not later than 10 days after receipt of notice, and may be amended reasonably and fairly by the respondent at any time. Both complaint and answer must be verified.

(c) Wherever a local fair housing law has been certified by the Department of Housing and Urban Development as substantially equivalent, the office shall notify the appropriate local agency of any complaint filed under this chapter which appears to constitute a violation of the local fair housing law, and the office shall take no further action with respect to the complaint if the local law enforcement official, within 30 days from the date the alleged offense was brought to his or her attention, has commenced proceedings in the matter. In no event may the office take further action unless it certifies that in its judgment, under the circumstances of the particular case, the protection of the rights of the parties or the interest of justice require the action. Complaints referred to the office by the Department of Housing and Urban Development may not be referred by the office to a local agency.

(d) Any conciliation agreement arising out of conciliation efforts by the office must be an agreement between the respondent and the complainant and is subject to the approval of the office. Each conciliation agreement must be made public unless the complainant and respondent otherwise agree and the office determines that disclosure is not required to further the purposes of this chapter.

(e) The investigation must be completed in no more than 100 days after receipt of the complaint. If the office is unable to complete the investigation within 100 days, it shall notify the complainant and respondent in writing of the reasons for not doing so.

(f) The office shall make final administrative disposition of a complaint within one year of the date of receipt of a complaint unless it is impractical to do so. If the office is unable to do so, it shall notify the complainant and respondent, in writing, of the reasons for not doing so.

(g) In any proceeding brought pursuant to this section, the burden of proof is on the complainant.

(h) Whenever an action filed by an individual in court pursuant to this section or Section 24-8-14 comes to trial, the office shall terminate all efforts to obtain voluntary compliance. (Acts 1991, No. 91-659, p. 1248, § 12; Acts 1995, No. 95-676, § 1.)

The 1995 amendment, which became effective without the Governor's signature under § 125 of the constitution on August 1, 1995, in

the third sentence of subsection (a), inserted "of the complaint," and substituted "serve notice" for "advise him"; substituted "has been certified

by the Department of Housing and Urban Development as substantially equivalent, the office shall notify the appropriate local agency of any complaint filed under this chapter which appears to constitute a violation of the local fair housing law, and the office shall take no further action with respect to the complaint if the local law enforcement official, within 30 days from the date the alleged offense was brought to his or her attention, has commenced proceedings in the matter. In no event may the office take further action unless it certifies that in its judgment, under the circumstances of the particular case, the protection of the rights of the parties or the interest of justice require the action. Complaints referred to the office by the Department of Housing and Urban Development may not be referred by the office to a local agency.

#### § 24-8-14. Civil action

Collateral references. Inadequacy of punitive damages.

§ 24-8-12

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§ 24-8-14

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§ 24-8-14

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are equivalent to the rights and remedies pro-

vided in this chapter" in the first sentence of  
subsection (c); deleted "is" preceding "filed" in  
subsection (h); and made nonsubstantive  
changes.

§ 24-8-14. Civil action; sale, encumbrance, etc. consummated before  
issuance of order; relief and award.

Collateral references. — Excessiveness or involving personal injury or death. 14 ALR5th  
inadequacy of punitive damages in cases not 242.

ADECA Civil Rights Compliance Checklist 5.1.  
Part F: Fair Housing Requirement  
(FY1995 and later grantees)

1. Has the grantee developed an analysis of impediments which assesses the needs necessary to identifying impediments to Fair Housing Choice as required by Section 570.487(b) of HUD's CDBG State Regulations? Yes ( ) No ( )
2. Does the community's analysis of impediments (AI) identify existing conditions, impediments, or barriers that limit Fair Housing Choice for buyers and renters? Yes ( ) No ( )
3. Does the analysis of impediments (AI) present a clear analysis of the information collected? Yes ( ) No ( )
4. Does the analysis identify any changes needed in governmental policies, real estate and lending institutions, zoning restrictions, etc., to correct or overcome the impediments identified? Yes ( ) No ( )
5. Has the grantee's analysis of impediments included a timetable or schedule for the resolution of the identified problems or impediments to Fair Housing Choice which indicates a specific plan of action? Yes ( ) No ( )
6. Does the analysis include a statement of assurance or commitment from local officials to implement the schedule of action regardless of any changes in the locality's administration (i.e., signature chief elected official, adoption by local governmental units, etc.)? Yes ( ) No ( )
7. Have there been any Fair Housing complaints, violations, judicial actions, or incidents of racial violence in your community related to housing discrimination within the past five (5) years? Yes ( ) No ( )
8. Have any conditions of non-compliance ever been placed on your community's previous CDBG (if applicable) programs administered by ADECA or DHUD because of a failure to comply with Fair Housing certifications or program regulations within the past five (5) years? Yes ( ) No ( )
9. Has your community failed to adopt and enforce a Fair Housing ordinance? Yes ( ) No ( )

10. Does the grantee have an explanation for any Fair Housing  
deficiencies noted? Yes ( ) No ( )

### Appendix - 3.

#### Suggested Assessment/Guide for Community Analysis of Impediments

Jurisdiction Name: \_\_\_\_\_

Date: \_\_\_\_\_

#### Identification of Impediments/Problems to Fair Housing Choice:

- I. Briefly list information on relevant public policies, i.e., local zoning regulations, school districts, subdivision regulations, building codes/code enforcement, realtors and financial institutional lending practices, etc.
  1. Are minorities totally absent as residents of your community? If so, why?
  2. Do all or most of the minorities in your community live in one neighborhood or restricted to certain communities?
  3. Are realtors hesitant to show minorities rental or ownership units in certain areas of the community, or in certain apartment buildings or subdivisions; and do the local banks and savings and loans consistently fail to provide mortgage or home improvement loans and/or insurance in certain areas of the community?
  4. Is public assisted or subsidized housing absent in your community or only present in minority areas?
  5. Do minorities work in your community but live elsewhere?
  6. Does the community's zoning policies hinder multifamily or construction of low income family housing or prohibit mobile homes?
  7. Does the community's school districts discourage or prohibit minorities from buying and living outside of predominantly minority areas?
  8. Has your city or town failed to adopt and enforce a fair housing ordinance?

9. Does your community assist people who believe they have encountered housing discrimination, or been denied an opportunity at Fair Housing Choice?
  10. If applicable, describe any fair housing complaints, violations, or judicial actions initiated against your community within the past five years. Also, describe any conditions placed on your community's previous CDBG program by ADECA or HUD because of a failure to comply with fair housing certifications or regulations within the past five years?
- II. To correct impediments to fair housing, under each impediment or barrier to fair housing identified in your community, list the proposed changes necessary to correct the identified problems.
- III. For each concern you identified under Item No. II, develop a schedule or timetable for the resolution of the barriers which should include:
1. A specific schedule of corrective actions;
  2. A mechanism for updating the analysis periodically;
  3. Assurances that the schedule of actions will be implemented regardless of any changes in the locality's administration; and
  4. Commitment from local officials for carrying out the schedule of actions (i.e., signature of chief elected official, adoption by local governmental units, etc.)

#### Suggested Implementation Action Steps

The implementation of a fair housing program will depend upon the answer to the community's needs assessment which is a part of the analysis of impediments to fair housing. The following are actions which might be appropriate in overcoming identified barriers to Fair Housing Choice in Community Development Block Grant communities. The following is only a suggested list of actions and the community should use the suggestions, as necessary, to best serve their need:

1. Promote efforts to enact a local fair housing ordinance which is substantially equivalent to the Federal Fair

Housing Law and preferably one with enforcement mechanisms and penalties.

2. Promote the revision of the local housing authority's formal and informal policies and practices so that public housing units are not assigned to cause or perpetuate racially or ethnically separate treatment of housing opportunities.
3. Review/revise the formal and informal policies and procedures guiding the operation of the Section 8 existing program to ensure that race or ethnicity is not an eligibility criterion for the program and/or some units participating in the program.
4. Work with developers and residents to ensure new assisted housing is located outside areas of minority or low-income concentrations.
5. Review local zoning laws and the impacts of existing zoning on multifamily and/or less expensive single family construction, and modify zoning laws to permit or facilitate such construction.
6. Review the CDBG rehabilitation program to ensure it serves very low-income minority residents as well as low and moderate income minorities and non-minorities.
7. Review local practices with respect to the capital improvements program and general revenue projects to ensure CDBG fund are not being used in place of, rather than to supplement, these programs in minority areas.
8. Develop and promote a public information program using local newspapers, radio stations, bulletin boards, utility bill mailings, etc., to ensure that all segments of the community are aware of fair housing requirements, especially realtors, landlords, financial institutions, and the minority community.
9. Develop and promote a fair housing assistance program to make housing opportunities in non-minority areas known to minorities, to monitor compliance, and to pursue discrimination complaints.
10. Meet with local financial institutions serving the community to discuss the implications of the "Community Reinvestment Act" (CRA) and the need to broaden lending

practices to all geographic locations and support community revitalization.

11. Promote and/or advocate for the development of a fair housing or human relations committee or organization in the local community.
12. Develop a monitoring procedure for compliance with Federal, State, and local fair housing laws.
13. Develop formal linkages, contact, and networks with community-based organizations operating in nearby communities to determine their perceptions of housing opportunities for minorities in the community and solicit their assistance in improving Fair Housing Choice.
14. Sponsor fair housing poster contests, speech contests, writing contests, in schools during National Fair Housing Month (April of each year).
15. Display fair housing exhibits at local shopping malls, fairs, exhibitions, etc.
16. Encourage local real estate industry groups to participate in voluntary affirmative marketing agreement programs or VAMA's (primarily found in large cities) whenever possible.